



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,944	07/07/2004	Andre Lechot	PRE-SA-0103	1169
33751	7590	06/24/2010	EXAMINER	
Greatbatch Ltd. 10,000 Wehrle Drive Clarence, NY 14031			WAGGLE, JR, LARRY E	
			ART UNIT	PAPER NUMBER
			3775	
			NOTIFICATION DATE	DELIVERY MODE
			06/24/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mscalise@greatbatch.com
dkraft@greatbatch.com

Office Action Summary	Application No. 10/500,944	Applicant(s) LECHOT, ANDRE	
	Examiner Larry E. Waggle, Jr	Art Unit 3775	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-8, 13 and 15-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-8, 13 and 15-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

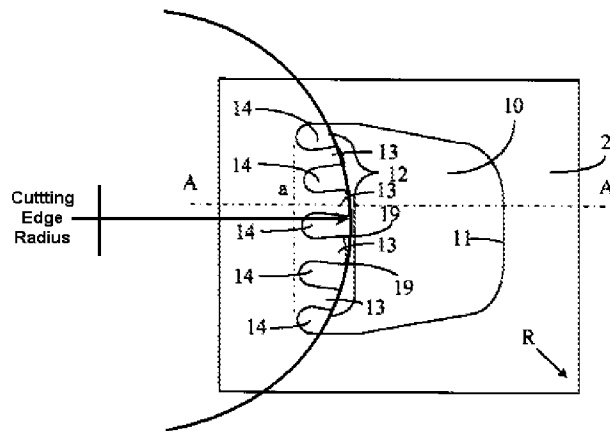
Claim Rejections - 35 USC § 102

A person shall be entitled to a patent unless –

Claims 1 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Da US Patent 5,968,049).

Art Unit: 3775

Regarding claim 15, Da Rold discloses a plurality of cutting teeth (10; Figure 5) comprising two buttress (similar to 17 in Figure 3) portions extending from the cutting shell and meeting an intermediate cutting edge (similar to 18 in Figure 3) spaced furthest from the cutting shell, the cutting edge defined by a plurality of cutting edge radii (i.e. portion of cutting edge formed on 13) that define a hemispherical shape (see annotated Figure below and column 2, line 48 - column 4, line 27).



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Da Rold (US Patent 5,968,049) in view of Salyer (US Patent 6,001,105).

Da Rold discloses the claimed invention except for the holes preceding each of the cutting edges being generally circular and the cutting teeth being arranged in a

Art Unit: 3775

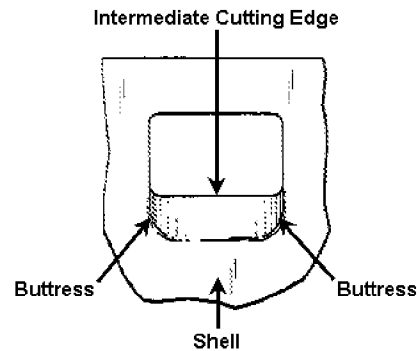
uniformly and in a spiral arrangement. Salyer teaches an acetabular reamer (10) comprising a cutting shell (10) and a plurality of cutting teeth (26) arranged uniformly in a spiral arrangement, wherein generally circular holes (52) precede each cutting tooth (Figures 3-7 and column 3, line 18 - column 6, line 8). It would have been obvious to a person having ordinary skill in that art at the time of the invention to construct the invention of Da Rold with the acetabular reamer comprising a cutting shell and a plurality of cutting teeth arranged uniformly in a spiral arrangement, wherein generally circular holes precede each cutting tooth in view of Salyer in order to provide an acetabular cavity with more accurate dimensions.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Da Rold (US Patent 5,968,049) in view of Mistretta (US Patent D468,598) further in view of Braun et al. (US Patent 4,116,200).

Da Rold discloses the claimed invention except for the intermediate cutting edge having a curvature that matches the curvature of the shell for the intermediate cutting edge's length until it meets the buttress. Mistretta teaches a cutting tooth comprising an intermediate cutting edge matching a shell for the length of the intermediate cutting edge until it meets buttresses on either side (see annotated Figure below and Figures 2-7). Although the shell and cutting tooth taught by Mistretta are flat in nature, a skilled artisan would recognize that, if combined with a hemispherical shell, the tooth would likewise take on a hemispherical shape. It would have been obvious to a person having ordinary skill in that art at the time of the invention to construct the invention of Da Rold with the cutting teeth each comprising an intermediate cutting edge matching a shell for

Art Unit: 3775

the length of the intermediate cutting edge until it meets buttresses on either side in view of Mistretta in order to provide a smooth cut surface free of grooves.



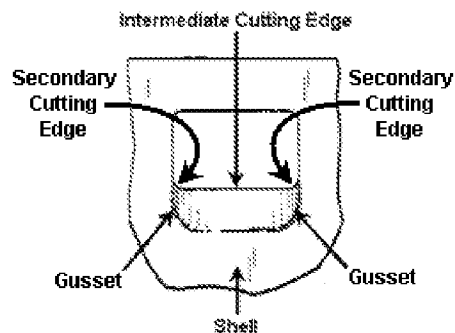
Da Rold in view of Mistretta disclose the claimed invention except for the cutting edges extending in an overlapping arrangement. Braun et al. teach an acetabular reamer comprising a plurality of cutting edges extending in an overlapping arrangement (see Abstract). It would have been obvious to a person having ordinary skill in that art at the time of the invention to construct the invention of Da Rold in view of Mistretta with the of cutting edges extending in an overlapping arrangement in view of Braun et al. in order to provide a continuous cutting edge surface conforming to the shape of the acetabular cup.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Da Rold (US Patent 5,968,049) in view of Mistretta (US Patent D468,598).

Da Rold discloses the claimed invention except for the at least one tooth having an arc cutting edge with a constant radius from the spherical center and two secondary edges supported by gussets which curve toward the shell. Mistretta teaches a cutting tooth comprising an intermediate cutting edge matching a shell for the length of the intermediate cutting edge until it meets secondary edges supported by gussets which

Art Unit: 3775

curve toward the shell (see annotated Figure below and Figures 2-7). Although the shell and cutting tooth taught by Mistretta are flat in nature, a skilled artisan would recognize that, if combined with a hemispherical shell, the tooth would likewise take on a hemispherical shape, wherein the intermediate cutting edge would comprise a constant radius from the spherical center. It would have been obvious to a person having ordinary skill in that art at the time of the invention to construct the invention of Da Rold with the cutting tooth comprising an intermediate cutting edge matching a shell for the length of the intermediate cutting edge until it meets secondary edges supported by gussets which curve toward the shell in view of Mistretta in order to provide a smooth cut surface free of grooves



Response to Arguments

Applicant's arguments with respect to claims 1-4, 7-8, 13 and 15-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Salyer et al. (US Publication 2003/0135219) disclose a plurality of cutting teeth arranged in a spiral arrangement.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Larry E. Waggle, Jr whose telephone number is 571-270-7110. The examiner can normally be reached on Monday through Thursday, 6:30am to 5pm, EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Barrett can be reached on 571-272-4746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3775

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. E. W./
Examiner, Art Unit 3775

/Thomas C. Barrett/
Supervisory Patent Examiner, Art
Unit 3775